

1 August 2016

## Bulleted summary of peer review and public comments, organized into issues

Green = public comment

Blue = peer review

Purple = both public comment and peer review

- **ISSUE:** Concerns about stressors outside the PCA:
  - What is the scientific basis for creating 2 management zones: the PCA and outside the PCA? What evidence is there that these are 2 distinct grizzly bear populations and that bears don't overlap the boundary to justify different management proposals for what is likely one population?
  - It is disingenuous to say that suitable habitat outside the PCA will provide additional ecological resiliency and habitat redundancy to respond to environmental changes; however, the same habitat protections do not occur outside of the PCA as inside the PCA.
  - It is insufficient that 60% of suitable habitat outside of the PCA is protected by other binding regulatory mechanisms. That means 40% remains unprotected.
  - The Service is effectively writing off the 25% of the independent females that occur outside of the PCA because there are inadequate habitat protections outside the PCA, this exceeds the mortality limit for this cohort under all circumstances.
  - Habitat outside of the PCA has become a sink for human-caused mortalities
  - Displacement from roads is well documented and may result in higher mortality rates and lower fecundity
  - p.59, second paragraph "levels of secure habitat and motorized route density are monitored on federal lands outside the PCA to identify and prevent potential habitat threats". Who will define, monitor, decide and pursue amelioration of the threat? What if that process is inconsistent with the current forest service plan?
  - There are discrepancies in FS maintenance of secure habitat outside of the PCA between the proposed rule and the CS
- **Concerns around phasing out/relinquishment of allotments**
  - Phasing out of allotments: include stronger language for mandatory phase-out; work with third parties to buy out allotments where possible.
  - This should be a management priority, especially for sheep allotments and where chronic conflicts have occurred.
  - "Voluntary relinquishments" of livestock allotments is "driven by the inability to withstand the pressure of predation by bears and/or wolves or regulatory constraints imposed by the federal land agencies"
  - The payment of some compensation by the "NGOs does not negate the severe impacts of relinquishments on these ranchers and our industry"
  - Prior to delisting, the US Sheep Experiment Station must be closed, the only sheep grazing operation in the PCA and on federal land. It is in an important connectivity area between the GYE and the Salmon-Selway Ecosystem.

1 August 2016

- Allowing private interests to control the phase out of allotments (i.e., willing permittees) may violate Section 7 of the ESA and other laws
- Explain “appropriate analysis by the agency must be conducted to evaluate impact on grizzly bears.” Evaluation of impacts does not directly translate into ensuring non-detrimental effects on grizzly bears. (Interpretation from Alex: in the rule we say, “appropriate analysis by the agency must be conducted to evaluate impact [of livestock allotments] on grizzly bears,” though we do not specify what we would do if we found impacts.)
- **ISSUE:** Concerns with our discussion of oil, gas, or mineral projects
  - Delisting will lift some of the restrictions on oil, gas, or mineral leases
  - Concern that 4% of suitable habitat inside the PCA and 19% of suitable habitat outside the PCA (inside the DMA) allows for surface occupancy. The impacts of such occupancy can extend beyond the footprint itself. Needs intense monitoring and mitigation.
  - The effects of honoring existing oil, gas, and other mineral leases are unclear. ‘Striving’ to meet the application rules for changes to secure habitat is unclear. Additional clarification on the number of leases, the location and area of leases, and possible range of effects of these leases to grizzly bears is warranted.
  - Not restricted inside the PCA. Do projects that reduce the amount of secure habitat have to replace secure habitat of similar habitat quality (i.e. is there required mitigation?)?
  - No new oil, gas, or mineral projects should be allowed in the PCA.
  - No means to limit the number of mines because of the 1872 General Mining Law.
  - Currently there are 2 mining operations in the process of development in and near the PCA (the Crevice Mine and the Emigrant Mine). These threats need to be acknowledged in the rule.
- **ISSUE:** What is the potential impact to bears feeding on army cutworm moth sites of increased human visitation?
- **ISSUE:** Concerns about our discussion of logging
  - Timber harvest will increase post-delisting because road densities will not be controlled in most grizzly bear habitat. Increased road densities will also increase mortality risk.
  - Concern that 11% of suitable habitat outside the PCA inside the DMA allows for timber harvest.
  - Impacts of logging:
    - Need to analyze impacts from logging between 2002 and the present to determine real impacts. If there was no logging after 2002 the Service should clarify that. (Currently we only discuss logging from 2000-2002).
    - Grizzly bears avoid recently logged forests (McLellan and Hovey 2001; Apps et al. 2004). Habitat values will likely decrease under short-rotation management regimes (Mattson and Knight 1991). Food availability does not increase in early successional forests in Yellowstone as it does in some other ecosystems.

**Commented [JB1]:** Trish wondered if we refer to the existing ability the FS has to protect these sites....Check in with FS on this...

1 August 2016

- Logging will degrade red squirrel habitat, which are essential to making WBP nuts available to grizzly bears. Most red squirrel populations are at lower elevations than the WBP zone.
- Aside from the increased risk from roads, there is not enough science to determine the impacts of logging on bears (i.e., displacement, habitat quality, mortality, etc.).
- Designation of secure areas for grizzly bears during logging should include previously disturbed areas as areas already providing security is not mitigation for increased disturbance. (interpretive note from Alex: when project will disturb or change secure area and thus need to mitigate for it, should not be able to mitigate for it with land that has already been disturbed (e.g. previously logged land))
- ISSUE: Forest Service designation of “sensitive species” or “species of conservation concern”:
  - Provide specific statutory and regulatory definitions and the authority that accompanies such a designation.
  - Designation under the 2012 Planning rule does not provide the same protections. The same project-level prohibitions do not apply.
  - Designation by the FS as a “sensitive species” or its equivalent is an important component of ongoing management to ensure that grizzlies remain a management priority.
- ISSUE: Wilderness, wilderness study areas, and roadless area designations:
  - These designations not restrictive enough to assume that no impact on grizzly bears exist in those areas. In Roadless areas, energy development or road construction in conjunction with oil and gas leases that pre-date the effective date of the rule, off-road vehicle use, motorized ATV trails, and human recreation may impact habitat. In Wilderness and wilderness study areas, mining claims that pre-date the Wilderness Act may be pursued. Livestock grazing is also permitted on these lands.
  - Cannot assume that changes in the management of roadless areas under the Roadless Rule will not occur as it is currently under judicial review.
  - Some aspects of the FS management of Wilderness Study Areas and Roadless Areas are inaccurately described. “The Service states that the Gallatin National Forest determined that gains in secure habitat resulting from full implementation of the 2006 Gravel Management Plan will constitute a new baseline, but it is unclear why the Service is not enforcing the Gallatin National Forest to decommission motorized routes and develop sites to comply with the 1998 baselines as all other forests have done.” 2006 Gallatin Travel Management Plan not approved?
  - Erroneous points in discussion of connectivity:
    - Please clarify what food storage orders have to do with connectivity.
- ISSUE: Forest Service plans and implementation:
  - The 2005 guidelines for habitat outside the PCA are not legally enforceable. Standards should include road density, secure habitat, and no surface occupancy stipulations for all federal lands within the DMA.

Commented [JF2]: Tricia is working on clarifying language and responses.

Commented [JF3]: Working on clarifying language and responses with Scott Jackson.

1 August 2016

- The 2012 Planning Rule requires the Forest Service to consider connectivity, including roads (permanent or temporary, open or closed) and site development in light of how they may increase human-bear conflicts and grizzly bear mortality.
- The 2006 Amendment cannot “simply be resurrected” once a new delisting is finalized. The FS has to do a new planning process and public review to amend their plans because the new CS changes the habitat protection provided by existing forest plans.
- Forest Service plans are not regulatory documents because of the 2012 Planning Rule.
- Forest plans to implement HBRC may not be implemented once listed status, which provides tools and incentives, is removed

**Commented [JF4]:** Working on clarifying language and responses with Scott Jackson. Tricia is working on the FS course of action for reimplementation of the 2006 amendment.